

REMARKS

Claims 1, 2 and 4-7 are presently pending in the application.

Applicants are pleased to note the Examiner's withdrawal of all of the rejections in the Office Action dated October 9, 2003.

The Examiner has rejected claims 1, 2 and 4-7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,792,406 of Wada et al. in view of U.S. Patent 6,303,560 of Hartan et al. This rejection is respectfully by strenuously traversed for the reasons set forth in detail below.

First, it is noted that the Wada reference was cited in the first Office Action in this application, but has not previously been relied upon by the Examiner in rejecting the claims. The use of this reference at this late date in the proceedings and the re-searching of the application to find additional prior art (as opposed to merely updating the search) is objected to as unduly burdensome on Applicants and in violation of the Patent Office principle of compact prosecution. In any event, the rejection is improper because Hartan et al. does not qualify as prior art against the present application for the reasons set forth below.

Hartan et al. has an effective prior art date under 35 U.S.C. § 102(e) of March 27, 2000. In contrast, the present application claims the benefit of a German Priority Application No. 199 36 235.1, having a filing date of August 5, 1999, which predates the effective prior art date of Hartan et al. Moreover, the German priority document fully supports the present claims.

In support of the reliance on the German priority date, Applicants submit herewith: (1) a copy of German Priority Document No. 199 36 235.1; (2) a copy of the published International application PCT/EP00/07473 (WO 01/10626 A1); and (3) a verified English translation of the PCT application. The undersigned hereby verifies as follows:

1. He is conversant in the German and English languages;
2. International Application PCT/EP00/07473 is identical to German Priority Application No. 199 36 235.1, as can be seen by even a cursory comparison of the documents;
3. The enclosed English translation is a true and correct translation into English of International Application PCT/EP00/07473 and therefore also of German Application 199 36 235.1;

Application No. 10/066,943
Reply to Office Action of May 17, 2004

4. The present specification is substantially identical to the verified English translation of the International application, except that it has been placed in U.S. form and the claims have been amended; and

5. Therefore, the German Priority Application No. 199 36 235.1 fully supports the present application and claims.

In view of the enclosed documents and the above Remarks, it is submitted that the rejection based upon Hartan et al. is improper and should be withdrawn. Accordingly, reconsideration and withdrawal of the rejection and an early Notice of Allowance are respectfully solicited.

Respectfully submitted,

RALF WIEDEMANN

September 15, 2004 By: W. W. Schwarze
(Date)

WILLIAM W. SCHWARZE

Registration No. 25,918

AKIN GUMP STRAUSS HAUER & FELD LLP
One Commerce Square, 2005 Market Street, Suite 2200

Philadelphia, PA 19103-7013

Telephone: 215-965-1200

Direct Dial: 215-965-1270

Facsimile: 215-965-1210

E-Mail: wschwarze@akingump.com

WWS/rc

Enclosures - International Application PCT/EP00/07473 (WO 01/10626 A1)
Verified English translation of the International application
German Priority Application No. 199 36 235.1
Petition for Extension of Time (one month)